

HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO.130 (MS) OF 2003

1. Shri Bhutali Singh, S/o Shri Govind Singh,
2. Shri S.P. Gupta, S/o Shri Sarwan Gupta,
3. Shri Ratan Lal Sharma, S/o Shri Kripa Ram Sharma,
4. Md. Shamim, S/o Shri Md. Yassin.
5. Shri Vijay Pal Sharma, S/o Shri Shankar Dass,
6. Shri Parveen Singh, S/o Shri Julfi Ram,
7. Shri Swaran Singh S/o Shri Dharam Singh,
8. Shri Shyam Lal Bhagat, S/o Shri Raj Bali Bhagat,
9. Shri M.S. Bhandari, S/o Shri Gauri Singh,
10. Shri Ram Nakshatar, S/o Shri Bhikan,
11. Shri Jagdish Singh, S/o Shri A.N. Singh,
12. Shri Upendra Rai, S/o Shri Bajrigi Lal,
13. Shri Hai Das Vasnik, S/o Shri Oka Ji Vasnik,
14. Shri Ash Narayan Yadav, S/o Shri Ramanand Yadav,
15. Shri Gandharva Singh, S/o Shri Jagat Singh,
16. Shri Gulab Singh, S/o Shri Ram Virkish Siongh,
17. Shri Jogindra Singh, S/o Shri Deep Ram,
18. Shri Bam Dev, S/o Shri Khidra,
19. Shri Basu Dev, S/o Shri Dhondu,
20. Shri Bhup Singh, S/o Shri Tej Singh,
21. Shir Bhav Rao Patil, S/o Shri Namdeo Rao Patil,
22. Shri Kameshwar Rai, S/o Shri Ram Nihora Rai,
23. Shri Babu Rao Hanumante, S/o Shri Shambhaji Hanumante,

All residents are N.P.C.C. Unit, Line Jeevangarh, Vikas
Nagar, District-Dehradun. Petitioners.

Versus

1. The Presiding Officer, Labour Court, Dehradun.

2. M/s N.P.C.C. Ltd. (A Govt. of India Enterprises) through its Managing Director, Plot No. 67-68, Sector-25, Faridabad(Haryana).
3. Unit Officer, Hathiyari Power House Unit, N.P.C.C. Vikas Nagar, District-Dehradun. Respondents.

Hon'ble Rajesh Tandon, J.

Heard Sri M.C. Pant, Advocate for the petitioner and Standing Counsel for the Respondents.

2. By the present writ petition, the petitioner has prayed for setting aside the order dated 28th August, 2001 as well as for a writ of mandamus directing the respondents no.2. to pay the HRA along with its arrears to the petitioner w.e.f. 1995.

3. Briefly stated, according to the case of the petitioners, they are working for a long time with the respondents no.2 and 3 and they have claimed that they are entitled for getting house rent allowance as per service conditions.

4. As will appear from the order dated 28.08.2001 passed by the respondent no.1, the rate of H.R.A. has been fixed to the extent of 10% of the basic wages.

5. According to the petitioners, the respondent no.3 having illegally stopped to pay the HRA benefits to the petitioners, they filed a claim petition under Section 33-C2 of the Industrial Disputes Act read with Section 15 of the Payment of Wages Act, which was registered as Misc. Case No. 49 of 2001. Respondent no.1 has refused to grant any relief to

the petitioner. The Labour Court on the basis of the Circular dated 17th November, 1998 has held that the workman having already been provided a single room family accommodation, they will be entitled to 10% of the present basic pay.

6. According to the statement dated 27.11.1996, further in the operative portion of the aforesaid order, it has been stated as under:

“6. The application suffers from another defect. It does not show the period to which the claim relates, the amount payable to the applications and basis of its calculation i.e. basic wages and its 10%.

7. In view of the aforesaid observations, the application was rejected.

8. Subsequently, the petitioners have filed a recall application and an order was passed on 02.01.2003 to the following effect:

*“The Unit Officer,
SPCC Ltd.
Hathiari Unit.*

Dear Sir,

It has been brought to the notice that the workmen posted at Hathiari Unit are paid 10% HRA of the old basic pay whereas they should have been allowed 10% HRA as the revised scales of pay as per settlement of 1996.

You are requested to please do the needful under intimation to Corporate Office.

Thanking you.”

9. In paragraph 13 of the Counter Affidavit, it has been stated that the petitioners have filed an application before the Presiding Officer Labour Court for recalling the order dated 28.08.2001 and the application is still pending. Relevant paragraph 13 of the counter affidavit is quoted below:

“13. That, the petition of the petitioners is misconceived and is not maintainable. The same is highly belated and is liable to be set aside. It is further relevant to state here that the petitioners have also filed an application before the Presiding Officer Labour Court for recalling the order dated 28/08/2001, the said application was also still pending before the Presiding Officer of Labor Court. As such also the alternative remedy already having been availed by the petitioners, they are not entitled to reasitate the matter before this Hon’ble Court and the same is liable to set aside with costs.”

10. In view of the aforesaid statement, the petitioner has submitted that let the application be disposed of by the labour Court in accordance with the rules and in view of the statements made by the Standing Counsel in the counter affidavit.

11. However, writ petition is disposed of directing the labour Court to dispose of the application filed on 28.08.2001 on merits. No order as to costs.

(Rajesh Tandon, J.)

30.08.2006

Rathour